IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

WP(C).No. 25869 of 2005(D)

OPMV.531/2003 of MOTOR ACCIDENT CLAIMS TRIBUNAL, MUVATTUPUZHA

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PETITIONER:

MADHUKUMAR, S/O.SANKARAMENON,
MANICKATHAZHATHU PUTHENPURA HOUSE,
MANGATTOOR KARA, AIKARANADU NORTH VILLAGE,
KOLENCHERY P.O.

BY ADV. SRI.K.R.KURUP
SRI.C.R.SYAMKUMAR
SRI.C.R.VINOD KUMAR
SRI.C.S.VINODKUMAR

RESPONDENTS:

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1. SUKUMARAN, S/O.RAMAN NAIR,
KALLUNGAL HOUSE, AIKARANADU SOUTH,
KOLENCHERY P.O.

2. THE NATIONAL INSURANCE COMPANY LTD.,
KOLENCHERY BRANCH, KOLENCHERY.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC 25869/05)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF CLAIM PETITION O.P(MV) NO.531/03.

EXT.P2: TRUE COPY OF FIR IN CRIME NO.86/03 OF PUTHENCRUZ POLICE STATION.

EXT.P3: TRUE COPY OF ORDER IN I.A.4586/04 IN O.P(MV)NO.531/03 OF THE MACT, MUVATTUPUZHA DATED 22.2.05.

PIUS C. KURIAKOSE,J.

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W.P.(C) No.25869 of 2005

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Dated: 7th June, 2007

JUDGMENT

No process is remitted though notice was ordered in this Writ Petition as far back as on 29.9.2005. Ext.P3 order of the M.A.C.T.Muvattupuzha dismissing an application for restoration is the order under challenge. The reasons stated in Ext.P3 is that the petitioner did not take any steps for ascertaining the correct address of the respondent. It is seen that substantially the address in Ext.P3 is shown in the Writ Petition also. I do not find any reason for setting aside Ext.P3 in the visitorial jurisdiction of this court under Article 227 of the Constitution. The Writ Petition is accordingly dismissed.

srd **PIUS C.KURIAKOSE, JUDGE**

After I delivered the judgment, learned counsel for the petitioner appears before me and submits that process was remitted on the day the Writ Petition was admitted. But it is seen from the records that on 31.8.05 and on 2.9.05 when this Writ Petition was posted earlier, there was no representation for the petitioner. When his attention was drawn to the endorsement of the Registry, he submitted that process is remitted today itself. He also submitted that

the amounts necessary for remitting the process had been entrusted by him with his clerk on the date of admission and the clerk is to be blamed for non-remittance of the process. Whatever be the truth, I do not find any warrant for setting aside Ext.P3 in the visitorial jurisdiction of this court under Article 227 of the Constitution. However, I notice that inadequacy of the affidavit and the non-filing of an application for enlargement of time were the reasons assigned by the learned Tribunal in Ext.P3. Therefore, even as I dismiss the Writ Petition confirming Ext.P3, it is made clear that there will be no bar for the petitioner filing fresh application with all relevant details before the M.A.C.T. If fresh application is received by the M.A.C.T. within two weeks from today, the M.A.C.T. will consider that application and if necessary will allow the application imposing such terms as the M.A.C.T. deems fit.

srd **PIUS C.KURIAKOSE, JUDGE**